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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,507	03/08/2002	Peter J. Brickfield	07500001AA	3726
7590	07/11/2006		EXAMINER	
McGuire Woods LLP Suite 1800 1750 Tysons Blvd. McLean, VA 22102			JARRETT, RYAN A	
			ART UNIT	PAPER NUMBER
			2125	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/092,507	BRICKFIELD ET AL.	
	Examiner	Art Unit	
	Ryan A. Jarrett	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 April 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 16-37,94-99 and 113-119 is/are pending in the application.
- 4a) Of the above claim(s) 94-99 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 16-37 and 113-119 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>03/06/06</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 04/21/2006 have been fully considered but they are not persuasive in the sense that the features that the Applicant argues for are not features which are explicitly required by the language of the claim. Particularly, Applicant argues that Smith does not disclose:

requesting at least one curtailment possibility from said at least one energy user, and processing the at least one curtailment possibility generated by said at least one energy user when the at least one relevant energy-related event is determined to be present, wherein the at least one energy user generates the at least one curtailment possibility based on rules associated with the energy user, the rules defining context for determining minimal impact to building occupants served by the at least one energy user.

However, this entire limitation is interpreted by the Office to be a component of step "(A)" in claim 16, since this entire limitation is directed to steps performed when an energy relevant-event is determined to be present, said determination forming the basis for step "(A)". In contrast, step "(B)" only requires the step of "continual optimization of a setting of the at least one energy user". Smith et al. clearly teaches this feature of step "(B)". And since claim 16 only requires that "said processing" includes either step "(A)" or step "(B)", in the alternative only, Smith et al. anticipates claim 16 at least by virtue of its teaching of claimed step "(B)". Likewise, new claims 116-119 are considered to be components of step "(A)" of claim 16, and thus are not explicitly required by the language of the claim.

In summary, the Office considers claim 16 to be a "hidden broad claim", i.e., a claim which recites many limitations that are not necessarily required by the claim language as a whole.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 03/06/2006 was filed after the mailing date of the Non-Final Office Action on 11/23/2005. The submission is in compliance with the provisions of 37 CFR 1.97(c). Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 16-37 and 113-119 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. U.S. Patent No. 6,785,592. Smith et al. discloses

16. A method for minimizing and/or eliminating need for human operator attention in energy management of a building system, comprising: non-human, computerized processing of obtained energy control and equipment status data communicated over a network, wherein the obtained energy, control and equipment status data is for at least one energy user in the building system, said processing including (A) automatic determination of whether at least one energy-relevant event is present or (B) continual optimization of a setting of the at least one energy user (e.g., col. 2 lines 10-47, col. 6 lines 42-52, col. 7 lines 18-30, col. 8 lines 58-65, col. 9 lines 11-24, col. 13 lines 7-19, col. 13 line 50 – col. 14 line 22), requesting at least one curtailment possibility from said at least one energy user, and processing the at least one curtailment possibility generated by said at least one energy user when the at least one relevant energy-related event is determined to be present, wherein the at least one energy user generates the at least one curtailment possibility based on rules associated with the energy user, the rules defining context for determining minimal impact to building occupants served by

the at least one energy user (Examiner Note (EN): *These feature are components of step "(A)", and are thus not required by the alternative "or" language of the claim*).

17. The method of claim 16, wherein the energy-relevant event is a threat of a new maximum peak (e.g., col. 15 lines 42-51, col. 18 lines 34-46, col. 19 lines 49-65, col. 22 lines 8-15, col. 22 lines 64-67, col. 23 lines 22-28, col. 24 lines 48-54).

18. The method of claim 17, wherein the peak is selected from the group consisting of a kW demand peak, a lighting peak a carbon dioxide peak and a pollutant peak (e.g., col. 15 lines 42-51, col. 18 lines 34-46, col. 19 lines 49-65, col. 22 lines 8-15, col. 22 lines 64-67, col. 23 lines 22-28, col. 24 lines 48-54).

19. The method of claim 16, including, when a energy-relevant event is automatically determined to be present, immediately activating an automatic response to the energy-relevant event (e.g., col. 2 lines 10-47, col. 6 lines 42-52, col. 7 lines 18-30, col. 8 lines 58-65, col. 13 lines 7-19, col. 14 lines 15-22).

20. The method of claim 19, wherein the automatic response is non-determinative (e.g., col. 15 line 24 – col. 16 line 9).

21. The method of claim 17, wherein at least one intelligent agent, from the obtained energy data, actually forecasts the peak (e.g., col. 15 line 24 – col. 16 line 9).

22. The method of claim 19, wherein the energy-relevant event is a threat of a new maximum peak, and the immediately activated automatic response includes energy reduction interventions to avoid the new maximum peak (e.g., col. 15 line 24 – col. 16 line 9, col. 18 lines 34-46, col. 19 lines 49-65, col. 22 lines 8-15, col. 22 lines 64-67, col. 23 lines 22-28, col. 24 lines 48-54).

23. The method of claim 16, wherein the automatic determination of whether at least one energy-relevant event is present comprises application of artificial intelligence (e.g., col. 15 line 24 – col. 16 line 9).

24. The method of claim 23, wherein the artificial intelligence is selected from the group consisting of neural networks; rule-based expert systems; and goal-based planning systems (e.g., col. 15 line 24 – col. 16 line 9).

25. The method of claim 16, wherein more obtained energy data is processed in a given time period than could be processed by a human being (e.g., col. 15 line 24 – col. 16 line 9).

26. The method of claim 16, wherein the building system comprises at least two buildings (e.g., col. 9 lines 25-34).

27. The method of claim 16, including machine-based learning from the obtained data and/or machined-based constructing a model from the obtained data (e.g., col. 15 line 24 – col. 16 line 9).

28. The method of claim 16, wherein the building system includes a building or buildings selected from the group consisting of at least one university building; at least one hotel building; at least one hospital building; at least one car dealership building; at least one shopping mall; at lease one government building, at least one chemical processing plant; at least one manufacturing facility; and any combination thereof of buildings (e.g., col. 10 lines 13-25).

29. The method of claim 16, wherein at two least buildings are under management and are geographically dispersed (e.g., col. 9 lines 25-34).

30. The method of claim 16, wherein a human operator is not needed (e.g., col. 2 lines 10-47, col. 6 lines 42-52, col. 7 lines 18-30, col. 8 lines 58-65, col. 13 lines 7-19, col. 14 lines 15-22).

31. The method of claim 16, wherein the building system includes at least two buildings and the at least two buildings are commonly owned or not commonly owned (e.g., col. 9 lines 25-34).

32. The method of claim 16, including automatic documentation of energy savings attributable to any said automatic interventions (e.g., col. 18 line 64 – col. 19 line 9).

33. The method of claim 16, including machine-based reasoning to select between at least two conflicting goals (e.g., col. 12 lines 60-67).

34. The method of claim 33, wherein the machine-based reasoning is to select between a market price goal and a comfort-maintenance goal (e.g., col. 12 lines 60-67).

35. The method of claim 16, including a computerized display of energy data and/or device (e.g., col. 11 lines 22-29).

36. The method of claim 16, including, on human demand, computerized forecasting, computerized simulation of an effect or effects of a proposed control action; and/or computerized reporting on simulation at various levels of aggregation (e.g., col. 8 lines 24-34, col. 15 lines 52-62).

37. The method of claim 36, wherein the aggregation level for the computerized reporting is at an individual device, at everything in a building, at a set of buildings, or everything commonly owned (e.g., col. 13 line 61 – col. 14 line 6).

113. The method of claim 16, wherein the step of processing at least one curtailment possibility further includes processing an obtained energy curtailment response (e.g., col. 7 lines 19-30, col. 8 lines 48-65, claim 13).

115. The method of claim 16, wherein the at least one energy user is part of a building management system (e.g., col. 9 lines 25-34).

116-119. (Examiner Note (EN): *These claimed features are components of step "(A)" of claim 16, and are thus not required by the alternative "or" language of the claim.*)

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan A. Jarrett whose telephone number is (571) 272-3742. The examiner can normally be reached on 10:00-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2125

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ryan A. Jarrett
Examiner
Art Unit 2125

7/3/06
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